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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,662	12/01/2003	Rikard Holmdahl	10223-007001	2350
7590 12/19/2006 Elizabeth N. Kaytor, Ph.D. FISH & RICHARDSON P.C., P.A. Suite 3300 60 South Sixth Street Minneapolis, MN 55402			EXAMINER VANDERVEGT, FRANCOIS P	
			ART UNIT	PAPER NUMBER
			1644	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/19/2006	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/724,662

Applicant(s)

HOLMDAHL ET AL.

Examiner

F. Pierre VanderVegt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-6, 8, 9 and 11-13 is/are rejected.
- 7) ☒ Claim(s) 3, 7, 10, 14 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>20040712</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This application claims the benefit of the filing date of provisional application 60/430,278.

Claims 1-15 are currently pending.

### ***Election/Restrictions***

1. Applicant's election without traverse of Group 1, claims 3 and 4, in the reply filed on October 4, 2006 is acknowledged.

Claims 1, 2 and 11-13 are linking claims that will be examined with the elected invention.

Upon further review, the present restriction requirement is WITHDRAWN.

Accordingly, claims 1-15 are the subject of examination in the present Office Action.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 is ambiguous and unclear in the recitation of the abbreviation "MBP." The first recitation of an abbreviation in the claims should be in addition to a recitation of the full term, as the same abbreviation can be used to identify other polypeptides. For example, the abbreviation "MBP" is also commonly used to represent "myelin basic protein" or "major basic protein." This ground of rejection can be overcome by amending the claim to recite --mannose binding protein (MBP)-- in place of the recitation of "MBP."

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2 and 11-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Stafslie et al. (J. Bacteriol. [2000] 182(11):3254-3258; U on form PTO-892).

The claims are drawn to a polypeptide comprising a C5 amino acid segment attached to a bacterial amino acid segment [claim 3].

Stafslie teaches a polypeptide that comprises a segment of human C5a (self) fused to jellyfish green fluorescent protein (GFP, non-self, Abstract in particular). Based upon the restriction sites used to cut the coding sequence of the well-known GFP disclosed by Stafslie (*Sma*I and *Not*I, page 3254, column 2) the GFP non-self amino acid segment is less than 200 amino acids in length [claims 11-13]. The prior art teaching clearly anticipates the claimed invention.

4. Claims 1, 5, 6, 8, 9 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Carney et al. (Protein Science [1993] 2:1391-1399; AL on form PTO-1449).

Carney teaches C5a mutant polypeptides comprising single amino acid residue substitutions within the sequence of C5a. Accordingly, the segment of C5a that occurs prior to the single-base substitution satisfies the metes and bounds of a "self C5 amino acid segment," while the remaining portion of the C5a molecule satisfies the metes and bounds of a non-self amino acid segment because the single amino acid substitution within the human C5 segment [claims 5, 8, 9] do not occur naturally, but were engineered into the polypeptide [claim 6]. The prior art teaching anticipates the claimed invention.

### *Conclusion*

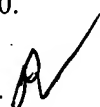
5. Claims 3, 7, 10 and 14-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

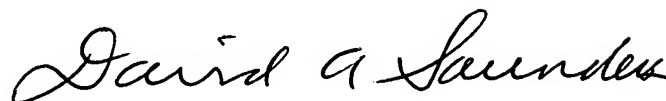
Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Pierre VanderVegt whose telephone number is (571) 272-0852. The examiner can normally be reached on M-Th 6:30-4:00 and Alternate Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

F. Pierre VanderVegt, Ph.D.   
Patent Examiner  
December 11, 2006



DAVID A. SAUNDERS  
PRIMARY EXAMINER